

AMENDMENT NO. 1 TO  
PROJECT PARTNERSHIP AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
PHILADELPHIA REGIONAL PORT AUTHORITY  
FOR CONSTRUCTION OF THE  
DELAWARE RIVER MAIN STEM AND CHANNEL PROJECT

THIS AMENDMENT NO. 1 is entered into this 23 day of FEBRUARY, 2010 by and between the DEPARTMENT OF THE ARMY (hereinafter the "Government"), represented by the District Commander, U.S. Army Corps of Engineers, Philadelphia, and the PHILADELPHIA REGIONAL PORT AUTHORITY (hereinafter the "Non-Federal Sponsor"), represented by its Chairman and Executive Director.

WITNESSETH, THAT:

WHEREAS, on June 23, 2008, the Non-Federal Sponsor and the Government entered into a Project Partnership Agreement (hereinafter the "Agreement") for the construction of the Delaware River Main Channel Deepening Project (hereinafter the "Project");

WHEREAS, on January 27, 2010 the United States District Court for the District of Delaware ruled that the Government had failed to sufficiently identify a specific source and amount of emission reduction credits to demonstrate an 'enforceable measure' that would ensure compliance with the Clean Air Act for the life of the Project;

WHEREAS, the Government has confirmed that the purchase of emission reduction credits will satisfy the requirements of the Clean Air Act as determined by the Project's Final Statement of Conformity, dated December 30, 2009;

WHEREAS, the Non-Federal Sponsor has acquired 873 tpy of NOx emission reduction credits to satisfy the requirements of the Clean Air Act as determined by the Project's Final Statement of Conformity, dated December 30, 2009, and the Non-Federal Sponsor desires to dedicate such emission reduction credits to the Project to satisfy the requirements of the Clean Air Act as determined by the Project's Final Statement of Conformity dated December 30, 2009.

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

1. Article I.D. – The definition of "total cost of construction of the general navigation features" is amended by replacing "; and costs of audit in accordance with Articles X.B. and X.C. of this Agreement" with "; costs of emission reduction credits in accordance with Article XXII.C. of this Agreement; and costs of audit in accordance with Articles X.B. and X.C. of this Agreement" at the end of the second sentence of the paragraph.

2. Article XXII of the Agreement is amended by adding new paragraph C, which shall read as follows:

“C. The Non-Federal Sponsor shall dedicate and pledge the Emission Reduction Credits ( hereinafter the “ERCs”) identified on the ERC Log as set forth in Exhibit “A” for use on the Project to satisfy the requirements of the Clean Air Act as determined by the Project’s Final Statement of Conformity dated December 30, 2009. The Non-Federal Sponsor shall continue to dedicate ERCs that the Government determines to be required for the Project. The Non-Federal Sponsor shall not transfer, pledge or otherwise encumber the ERCs for any other purpose unless the Government authorizes such change in writing. The Non-Federal Sponsor may dedicate additional ERCs to the Project for purposes of regulatory compliance upon receiving written approval from the Government to revise the ERC Log. The costs of acquiring the ERCs, including the incidental costs of obtaining such ERCs, shall be included in the total cost of construction of the general navigation features and shared in accordance with the terms of this Agreement, subject to audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs.”

3. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the 2008 Project Partnership Agreement, which shall become effective upon the date it is signed by the District Commander, U.S. Army Corps of Engineers, Philadelphia.

## CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

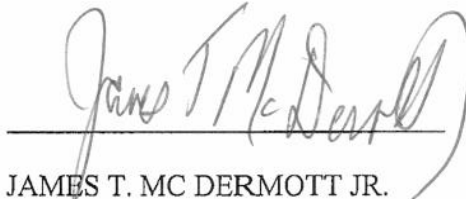
(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



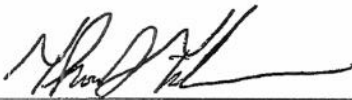
CHAIRMAN  
PHILADELPHIA REGIONAL  
PORT AUTHORITY



JAMES T. MC DERMOTT JR.  
EXECUTIVE DIRECTOR,  
PHILADELPHIA REGIONAL  
PORT AUTHORITY

THE DEPARTMENT OF THE ARMY

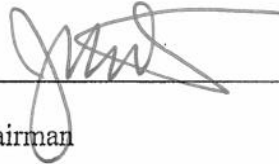
By: \_\_\_\_\_



LTC Thomas J. Tickner  
District Commander  
U.S. Army Corps of Engineers,  
Philadelphia

THE PHILADELPHIA REGIONAL  
PORT AUTHORITY

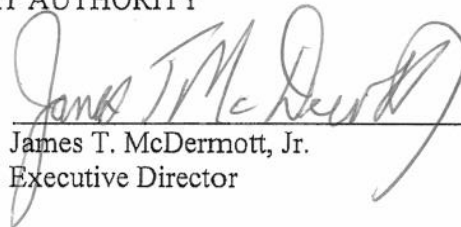
By: \_\_\_\_\_



Chairman

THE PHILADELPHIA REGIONAL  
PORT AUTHORITY

By: \_\_\_\_\_



James T. McDermott, Jr.  
Executive Director

CERTIFICATE OF AUTHORITY

I, Gregory V. Iannarelli, do hereby certify that I am the principal legal officer of the PHILADELPHIA REGIONAL PORT AUTHORITY, that the PHILADELPHIA REGIONAL PORT AUTHORITY is a legally constituted public body with full authority and legal capability to perform the terms of Amendment No.1 to the Agreement between the Department of the Army and the PHILADELPHIA REGIONAL PORT AUTHORITY in connection with the DELAWARE RIVER MAINSTEM AND CHANNEL DEEPENING PROJECT, and to pay damages in accordance with the terms of this Agreement, if necessary, in the event of the failure to perform, as required by Section 221 of Public Law 91-611 (42 U.S.C. Section 1962d-5b), and that the persons who have executed this Amendment No.1 to the Agreement on behalf of the PHILADELPHIA REGIONAL PORT AUTHORITY have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this  
25<sup>th</sup> day of February 2010.



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GREGORY V. IANNARELLI, ESQ.  
COUNSEL  
PHILADELPHIA REGIONAL PORT AUTHORITY

DATE: 2/25/2010